

**PATENT COOPERATION TREATY**  
**PCT**  
**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)  
(PCT Article 36 and Rule 70)

REC'D 05 JUL 2005

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Applicant's or agent's file reference J30821PC/GC/IDJ	<b>FOR FURTHER ACTION</b>	See Form PCT/IPEA/416
International application No. PCT/AU2004/001012	International filing date (day/month/year) 30 July 2004	Priority date (day/month/year) 31 July 2003
International Patent Classification (IPC) or national classification and IPC Int. Cl. <sup>7</sup> A61M 25/06, 5/32		
Applicant MEDIGARD LIMITED et al		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 4 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
- a. ☐ (sent to the applicant and to the International Bureau) a total of sheets, as follows:
- ☐ sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
- ☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
- b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or table related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items:
- ☒ Box No. I Basis of the report
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 21 February 2005	Date of completion of the report 27 June 2005
Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaaustralia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  STEPHEN CLARK Telephone No. (02) 6283 2781

# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/001012

## Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
  - ☐ This report is based on translations from the original language into the following language which is the language of a translation furnished for the purposes of:
    - ☐ international search (under Rules 12.3 and 23.1 (b))
    - ☐ publication of the international application (under Rule 12.4)
    - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
  - ☒ the international application as originally filed/furnished
  - ☐ the description:
 

pages	as originally filed/furnished	
pages*	received by this Authority on	with the letter of
pages*	received by this Authority on	with the letter of
  - ☐ the claims:
 

pages	as originally filed/furnished	
pages*	as amended (together with any statement) under Article 19	
pages*	received by this Authority on	with the letter of
pages*	received by this Authority on	with the letter of
  - ☐ the drawings:
 

pages	as originally filed/furnished	
pages*	received by this Authority on	with the letter of
pages*	received by this Authority on	with the letter of
  - ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
  - ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to the sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
  - ☐ the description, pages
  - ☐ the claims, Nos.
  - ☐ the drawings, sheets/figs
  - ☐ the sequence listing (*specify*):
  - ☐ any table(s) related to the sequence listing (*specify*):

\* If item 4 applies, some or all of those sheets may be marked "superseded."

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**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**

International application No.

**PCT/AU2004/001012****Box No. IV Lack of unity of invention**

1. ☐ In response to the invitation to restrict or pay additional fees the applicant has:

- ☐ restricted the claims.
- ☐ paid additional fees.
- ☐ paid additional fees under protest.
- ☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is:

- ☐ complied with.
- ☒ not complied with for the following reasons:

Claims 1-16 relate to a cannula/catheter introducer with inner and outer tubular members, sealing means, release means, a needle holder with a release means where movement of the inner tubular member allows the release means to lock against the needle release means and vacuum retract the needle.

Claim 17 relates to a cannula/catheter introducer with inner and outer tubular members, retraction means for a puncture needle and a limit means to limit the travel of the inner tubular member, located adjacent a distal end of the introducer.

The only technical features of the claims that are common are the catheter/cannula introducer, the inner and outer tubular members and retraction of a needle. These features are common to this art and found in the "A" category citations of the ISR. The remaining special technical features are not shared by both sets of claims and as such the claims lack unity a posteriori.

4. Consequently, this report has been established in respect of the following parts of the international application:

- ☒ all parts.
- ☐ the parts relating to claims Nos.

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# INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/AU2004/001012

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims 1-17	YES
	Claims	NO
Inventive step (IS)	Claims 1-17	YES
	Claims	NO
Industrial applicability (IA)	Claims 1-17	YES
	Claims	NO

## 2. Citations and explanations (Rule 70.7)

### Novelty (N), Inventive Step (IS) Claims 1-17

None of the citations alone, or in obvious combination, disclose all of the features of any of the claims.

In particular, the features of claims 1-16 where inner and outer tubular members are present and movement of the inner tubular member allows the release means to lock against the needle release means to vacuum retract the needle was not found.

The limit means adjacent the distal end of the introducer to limit the travel of the inner tubular member of claim 17 was also not found.

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